

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JERICO DEMISSIE,
Plaintiff,

v.

7-ELEVEN, INC., et al.,
Defendants.

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3:09-CV-1153-M-BK

ORDER REGARDING MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL

(For *pro se* non-PLRA appeals)

Considering the record in this case and the recommendation of the Magistrate Judge, the Court hereby finds and orders:

- () The motion for leave to proceed *in forma pauperis* on appeal is GRANTED. 28 U.S.C. § 1915.
- (X) The motion for leave to proceed *in forma pauperis* on appeal (Docket #101) is DENIED for the following reasons:
- () The plaintiff is not a pauper.
 - () The plaintiff has not complied with the requirements of 28 U.S.C. § 1915(a)(1) or (a)(2).
 - () The plaintiff is barred by “three strikes” from proceeding *in forma pauperis*. 28 U.S.C. § 1915(g).
 - (X) Pursuant to 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3), the court certifies that the appeal is not taken in good faith. In support of this finding, the court adopts and incorporates by reference the District Court’s Order filed on July 25, 2011, which accepted the findings, conclusions and recommendation of the magistrate judge filed on June 20, 2011. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the above order, this Court finds that the appeal presents no legal points of arguable merit and is therefore frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

Although this appeal is certified as not taken in good faith under 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3), the plaintiff may challenge this finding by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30

days of this Order.

Signed this 6th day of September, 2011.

A handwritten signature in black ink, reading "Barbara M. G. Lynn". The signature is written in a cursive style with a large initial 'B' and 'L'.

BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS